

REMARKS

Claims 1-25 are pending in this application.

Rejection of Claims Under 35 U.S.C. §102

Claims 1-25 are rejected under 35 U.S.C. § 102(e) as anticipated by Cohen, et al., U.S. Patent No. 7,050,396 (hereinafter "Cohen"). This rejection should be withdrawn based on the comments and remarks herein.

Among the problems recognized and solved by Applicant's claimed invention is the need for a system and method in which an application developer need not make traffic-attributes to traffic-class translation for each network/bandwidth broker, and determine which networks a given session will traverse in order to communicate with the appropriate bandwidth brokers. Applicant's inventive solution enables dynamically providing quality of service (QoS) services on an individual traffic flow basis, such that traffic flow is considered and reflected in the service provided.

Cohen teaches ensuring that traffic returning to a user has the same QoS treatment as traffic originated by that user without requiring the user to always use a particular machine or device (column 5, lines 10-13). Cohen teaches establishing bi-directional differentiated services treatment of flows in a network (column 6, lines 11-13). Cohen discloses a QoS policy in association with an edge device, such that when a specified DSCP reflective signaling value is detected in packets of inbound flows, the same DSCP value is applied to corresponding return flows (column 8, lines 7-11). Hence the DSCP value for the return flow is determined by the inbound flow, and is neither obtained based on if/whether the networks the traffic flow traverses can support the flow, as recited in independent claims 1, 8, and 19, nor obtained to correspond to

a determined network that is traffic class enabled, as recited in independent claims 15, 17, and 24.

It has been held by the courts that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). As illustrated above, Cohen does not disclose either obtaining a DSCP value for the traffic flow *if the networks the traffic flow traverses can support the flow*, or obtaining a DSCP value *that corresponds to a determined network that is traffic class enabled*, so that Cohen does not disclose every feature of the invention as recited in independent claims 1, 8, 15, 17, 19, and 24. Consequently, these independent claims are not anticipated by the art of record in the application. Claims 2-7 depend from claim 1, claims 9-14 depend from claim 8, claim 16 depends from claim 15, claim 18 depends from claim 17, claims 20-23 depend from claim 19, and claim 24 depends from claim 23, each dependent claim incorporating all of the features and limitations of its base claim. Thus, these dependent claims are not anticipated by the art of record in the application for at least the reasons that their base claims are not anticipated by the art of record in the application.

Hence, withdrawal of this rejection is respectfully requested.

Conclusion

In light of the foregoing, Applicant respectfully submits that all pending claims recite patentable subject matter, and kindly solicits an early and favorable indication of allowability.

Authorization is hereby given to charge Deposit Account No. 02-1822 the fee due under 37 CFR 1.17(a) of \$1110.00 for a three month extension of the time to reply to the Office Action.

Respectfully submitted,
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